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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,743	10/26/2001	Balakrishnan Shankar	SJ1-026US	9121
36802	7590	02/03/2006		
PACESETTER, INC. 15900 VALLEY VIEW COURT SYLMAR, CA 91392-9221			EXAMINER OROEZA, FRANCES P	
			ART UNIT	PAPER NUMBER

3766

DATE MAILED: 02/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/039,743

Applicant(s)

SHANKAR ET AL.

Examiner

Frances P. Oropeza

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 8/4/05 (Amendment).
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2,3,5-24 and 26 is/are pending in the application.
- 4a) Of the above claim(s) 8,10-24 and 26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2,3,5-7 and 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Restriction*

1. Claims 8, 10-24 and 26 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 10/7/05.

### *Response*

2. The Applicant amended independent claim 3 in his response of 8/4/05, hence the rejection of record is withdrawn and a new rejection established in the subsequent paragraphs.

### *Claim Rejections - 35 USC § 102*

3. Claims 2, 3, 5 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Mass et al. (US 6675045). Mass et al. disclose an implantable cardiac device comprising an antenna integrated into the housing, a header (103), a high frequency/ RF transceiver (RFC1), a cardiac therapy circuitry (TC1), and a housing having two chambers (101A, 101B) to house the transceiver and therapy circuit respectively (abstract; figure 1; col. 1 @ 6-10, 59-67; col. 3 @ 44-64).

### *Claim Rejections - 35 USC § 103*

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mass et al. (US 6675045) in view of Haubrich (US 6379300). As discussed in paragraph 3 of this action, Mass et al. disclose the claimed invention except for use of a diplexer.

Haubrich teaches implanted device signals management using a diplexer (26, 30, 32, 34) for the purpose separating the higher frequency and low frequency signals. It would have been obvious to one having ordinary skill in the art at the time of the invention to have used a diplexer in the Mass et al. system in order to prevent passage of high frequency signals from the antenna to the sensing or stimulating circuitry and to prevent passage of low frequency signals from the medical lead to the transceiver, hence avoiding distortion or corruption of the signals of interest (abstract; figure 2; col. 3 @ 61 – col. 4 @ 24).

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mass et al. (US 6675045) in view of Bardy (US 6312378). As discussed in paragraph 3 of this action, Mass et al. disclose the claimed invention except for the implanted device being linked to a computing network.

Bardy teaches data management using a computing system (14, 15, 16, 17) connected to an implantable device (12) for the purpose of automatically collecting and analyzing patient information. It would have been obvious to one having ordinary skill in the art at the time of the invention to have used a computing system connected to an implantable device in the Mass et al. system in order to enable remote patient care so trends in the patient's condition can be recognized and a determination made regarding the need for intervention (figure 1; col. 1 @ 8-12; col. 2 @ 41-49).

#### *Statutory Basis*

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fran Oropeza whose telephone number is (571) 272-4953.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communication and for After Final communications.

Frances P. Oropeza  
Patent Examiner  
Art Unit 3766

*FPO*  
*1/30/06*

  
Robert E. Pezzuto  
Supervisory Patent Examiner  
Art Unit 3766